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July 21, 2005

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Public Disclosure Commission
Suite 206
711 Capitol Way
Olympia, WA 98504-0908

RE: Request for Investigation and Possible Complaint

Dear Commission Staff:

I represent the Washington State Medical Association [hereafter "WSMA"]. They have information to be mentioned below that suggests that the Washington State Trial Lawyers Association [hereafter "WSTLA"] may have neglected to comply with all or some of the "earmarking" reporting requirements of RCW 42.17.135, as well as basic registration and disclosure requirements as a political committee. That, in turn, may have led to a violation of the political advertising requirements of RCW 32.17.510.

They are making no accusations here; rather, they are requesting an investigation pursuant to the Commission's statutory authority found at RCW 42.17.350(4); and adjudication, as to whether or not a violation has occurred pursuant to RCW 42.17.395, if the Commission concludes that there is sufficient evidence to justify filing charges.

On information and belief, here are the facts as WSMA understands them. WSTLA is a trade association of attorneys engaged in litigation activities. It is currently involved with two ballot initiatives scheduled to be voted on by the people in the fall: 330 which it opposes and 336 which it favors. Each initiative has a political action committee which is working for the passage of its initiative and defeat of the other initiative. Each political committee has affiliated organizations which are trade associations for purposes of RCW 42.17.660 which make contributions to the PAC supportive of their positions on 330 and 336. As long as those contributions are from general operating funds that was not raised expressly to be sent to the PAC, WSMA agrees that no violation of the public disclosure laws

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disclosure laws is implicated.

However, RCW 42.17.135 provides that when a political committee, as defined in RCW 42.17.020(33)] receives "a contribution that is earmarked for the benefit of another political committee," it has three responsibilities. First, it must report that as required under RCW 42.17.080 and 090. Second, it must complete an earmarked contributions form prescribed by the Commission which contains information required under that subsection. Third, it must notify the Commission and the political committee for whose benefit the contribution is earmarked. This last obligation must be completed within two business days of the receipt of each contribution. Additionally certain reporting obligations devolve on the political committee that was given the earmarked contribution. WSMA is concerned that this may not have been done with certain earmarked contributions described below.

WSMA has been informed that Eric Neiman, a member of WSTLA, received notification that WSTLA is increasing his dues from \$245 to \$600, effective August 1, 2005. On July 12, 2005, he called the Association to inquire as to the reason for the increase. He asked for the membership department and spoke with a gentleman who identified himself as John Haney (sp?). Because Mr. Haney works in WSTLA's membership department, it is reasonable to assume he is an authorized WSTLA spokesperson on the issue of why membership dues were raised.

Mr. Haney explained that the dues were raised, in part, to pay for upgrades to WSTLA's website and its list serve, but the bigger reason, according to Mr. Haney, was to allow WSTLA to respond to I-330. Mr. Neiman can usually be reached by telephone at 503-944-6943 and is prepared to sign an affidavit under oath as to the substance of this conversation as described herein. For the next two weeks, Mr. Neiman is on vacation, but can be reached on his cell phone at 503-319-3142.

Therefore, WSMA infers that some part of the increase in dues was expressly intended to be used for contributions to the anti-330 and/or pro-336 political committees. Yet, as of July 11, 2005 there appears to be no publicly available record that WSTLA has registered as a political action committee or that it has notified the Public Disclosure Commission of its collection of any earmarked funds.

If this is correct, another violation may also have occurred. If this money is

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being used to purchase political advertisements, then RCW 42.17.510(1) must be complied with which requires the identity of the ad's sponsor in accordance with that statute. See also 42.17.505(2) as to determining who the real sponsor of a political advertisement is for purposes of complying with section 510.

The thrust of the public disclosure laws in Washington, with a few exceptions not here relevant, is to ensure that the public knows exactly how political funds (at the state and local electoral levels) are flowing and from whom. RCW 42.17.135 seeks to advance those objectives by regulating disclosures regarding earmarked contributions. Similarly, RCW 42.17.510 seeks to ensure that certain political advertisements are properly labeled so that the public can know who is behind them and evaluate them accordingly. If the practice discussed here occurred as described, then those goals have been compromised and remedial action is indicated.

RCW 42.17.390 sets forth remedies that the Commission may seek from a court. WSMA believes that subsection (3), relating to civil penalties for each violation or section, and subsection (4), regarding the amount an entity failed to properly report, are both pertinent and appropriate and should be considered if a violation is found. Naturally, the Commission may believe that additional sanctions are indicated.

WSMA also believes that it is likely that WSTLA has different categories of members. If that is true and it is in fact collecting dues from some categories of members with the express intent of contributing a portion of the money to the initiative campaigns, it is reasonable to investigate whether it is doing the same thing with the proceeds of dues from other membership categories. Therefore, WSMA requests that the PDC investigation be wide enough in scope to address whether this is occurring.

Do not hesitate to call on me or WSMA if any of us can provide additional information regarding this matter. The contact at WSMA is Tom Curry, and his number is 206-441-9762.

WSMA appreciates your looking into this matter to ensure that all participants in hotly contested matters are participating as required by the rules

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that apply to everyone.

Sincerely yours,

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a series of loops and a final flourish.

Andrew K. Dolan

C: Client
Eric Neiman

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Public Disclosure Commission

August 4, 2005

VIA FACSIMILE & MAIL

Doug Ellis, Assistant Director
Public Disclosure Commission
PO Box 40908
Olympia, WA 98504-0908

Fax 360-753-1112

RE: Request for Investigation and Complaint

Dear Commission Staff:

Thank you for your August 2, 2005 reply to my earlier communication to the PDC of July 21, 2005 regarding the Washington State Trial Lawyers Association and certain "earmarking" reporting requirements of RCW 42.17.135.

In your letter, you report that the PDC has taken no action because you had a phone conversation with me that clarified that the communication was not a complaint and that the PDC required additional evidence. I am writing to clarify our communication, if that is required.

Our earlier letter identified itself as a request for an investigation and possible complaint, based on the findings of your investigation. I have made only one call to the PDC and that was to ascertain that my earlier communication was received. There was no conversation regarding the letter being a complaint or not that I recall. I think I might have said that I was not complaining that I had not heard back yet, but just inquiring whether the letter had been received. Similarly, others had made calls earlier than my letter inquiring about the applicable rules, and possibly those calls are being confused with my call. At the earlier time, the calls were more in the line of inquiries. However, I do want to clarify that our letter was a complaint depending on what the evidence produced. We headed that letter a "possible" complaint. If that is the problem, and you cannot pursue

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Doug Ellis, PDC
August 4, 2005

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an investigation without the letter styling itself a complaint, then please consider this letter an amendment to that effect as with the "Re" line above.

As to the need for additional evidence, please let us know what you require. We have told you what made us concerned and identified the person who spoke with the Trial Lawyers Association regarding that. That is all we have, but it certainly seems to justify an inquiry and a subsequent enforcement action by the PDC, if the facts support the characterization. In any case, it is a statement of a WSTLA official which seems more than enough evidence to support a claim because it amounts to an admission. Do not hesitate to contact the person we identified who is willing to speak to your investigators.

Please let us know what else is required for the PDC to look into this matter. Thank you for your assistance on this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'A. K. Dolan', with a stylized flourish at the end.

Andrew K. Dolan

C: Client

AKD-775-pdc